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# Appeal Decision

Hearing held on 9 June 2010  
Site visit made on 9 June 2010

by **P W Clark MA MRTPI MCMl**

**an Inspector appointed by the Secretary of State  
for Communities and Local Government**

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**Decision date:  
21 July 2010**

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## **Appeal Ref: APP/Y1945/A/10/2123113**

### **Former West Herts College Leggatts Campus, Leggatts Way, Watford WD24 5TE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Taylor Wimpey North Thames Ltd against the decision of Watford Borough Council.
  - The application Ref 09/00835/FULM, dated 6 November 2009, was refused by notice dated 28 January 2010.
  - The development proposed is redevelopment of the site, comprising 217 dwellings (47N<sup>o</sup> 1-bed flats, 104N<sup>o</sup> 2-bed flats, 2N<sup>o</sup> 3-bed flats, 28N<sup>o</sup> 3-bed houses and 36N<sup>o</sup> 4-bed houses), a neighbourhood centre, play space, alterations to accesses from Leggatts Way and North Western Avenue, car parking, refuse and cycle stores.
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### **Application for costs**

1. At the Hearing an application for costs was made by Taylor Wimpey North Thames Ltd against Watford Borough Council. This application is the subject of a separate Decision.

### **Decision**

2. I allow the appeal, and grant planning permission for redevelopment of the site, comprising 217 dwellings (47N<sup>o</sup> 1-bed flats, 104N<sup>o</sup> 2-bed flats, 2N<sup>o</sup> 3-bed flats, 28N<sup>o</sup> 3-bed houses and 36N<sup>o</sup> 4-bed houses), a neighbourhood centre, play space, alterations to accesses from Leggatts Way and North Western Avenue, car parking, refuse and cycle stores at the Former West Herts College Leggatts Campus, Leggatts Way, Watford WD24 5TE in accordance with the terms of the application, Ref 09/00835/FULM, dated 6 November 2009, and as subsequently amended, subject to the conditions appended to this decision.

### **Procedural matter**

3. The application was amended during its consideration by the Council. For the avoidance of doubt I include a condition to show which are the approved drawings.

### **Main issues**

4. There are two. One is the relationship of the proposal to the character and appearance of the surrounding area. The other is the effect of the proposal on the relationship between supply, need and demand for housing of various types and sizes.
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5. The appeal is accompanied by a unilateral undertaking. It provides for affordable housing and for the provision of fire hydrants within the scheme. It provides for the payment of monies to secure transport improvements and facilities for childcare, libraries, nursery education, primary education, secondary education, youth services and health services proportionate to serve the development. Other than certain aspects of the provision for affordable housing, discussed below, the Council is satisfied that the undertaking is necessary to avoid objections to the scheme because of otherwise adverse impacts on each of those matters. I am satisfied that the obligation complies with the three tests set out in the CIL Regulations and so I am able to take it into account in making my decision.

## **Reasons**

### *Relationship to surroundings*

6. The A41 dual carriageway, lined by a screen of trees, effectively cuts off the site from neighbouring residential districts to its north. To its south, Harebreak Woods does the same. East of the proposed development site are playing fields, to be kept and transferred to the Council. Beyond them is a school. In the distance can be seen a mosque, the roofs of suburban houses and the four or five storey bulk of Mothercare's offices.
7. Only to the west of the site is there immediate contact with existing development. There, semi-detached suburban houses front on to Leggatts Way, their rear elevations separated from the site by gardens of reasonable length (18-24 metres). The site therefore has a limited potential for any direct relationship with neighbouring development. It is also a large site. For these two reasons, I concur with the advice in paragraph 10.3 of the Council's *Leggatts Campus and Bill Everett Community Centre Site* planning brief (December 2007) that the new scheme should have its own distinct identity and sense of place.
8. The brief also repeatedly recommends, in accordance with policies U2(a) and U3 of the Watford District Plan 2000 (adopted in 2003), that the development should integrate with the character of the local area. Supporting text in paragraph 11.10 of the plan explains that such integration should not be through mimicry but through sympathy and respect. Map 6 of the District Plan itself places the site within an extensive Historic Environment Character Area. The Council's Supplementary Planning Guidance SPG28 – *Watford: Historic Environment Character Statement and Guidance Note* points out that this large zone comprises at least three distinctly different areas.
9. A different analysis is contained in the Council's more recent Supplementary Planning Document *Building New Homes Residential Design Guide Volume 1* (November 2008) (RDG1). Picture 4.5 of this document places the site in between several residential character areas and on the edge of character area 5G, one of a number of areas described as (though not exclusively comprising) inter-war semi-detached housing. This analysis corresponds more closely with what I saw on site and so I find it the more compelling. The Council accepts that it supersedes the character area definitions within the District Plan itself.
10. The proposed development would comprise 70% 3 and 4 storey flats and 30% 2 and 3 storey houses so its character would be predominantly flatted. Clearly

therefore, it does not mimic the predominant character (2 storey terraced and semi-detached housing) of character area 5G. But, as already noted, it is both peripheral to that area and should have its own distinct identity, so I do not find the fact that it has a different character unacceptable in principle. The existence of flatted developments such as at Courtlands Close and Churchfields Road, permitted within area 5G, reinforce the view that a flatted development with its own identity ought to be acceptable outside area 5G.

11. The main vehicular access to the site would be taken off the A41 in the hinterland between several residential character areas and linked to none. An access of lesser significance would be taken off Heather Lane at the extremity of character area 5G. At a later date, the development of another site may give a more central access to Leggatts Way connecting to character area 5G but the development of that site itself would mediate between that character area and this appeal site. The Planning Brief suggests that a footpath which provides the only direct link between the site and character area 5G be closed, a suggestion which the proposal would act on. In consequence, the potential for the site to have a relationship to character area 5G, already peripheral, would be tenuous.
12. Where there would be a direct relationship, to the rear of the houses fronting Leggatts Way, the proposal would place terraces and semi-detached houses. District Plan policy U3 provides a set of criteria by which to evaluate the integration of a development into a character area. These criteria are elaborated in the Council's RDG1. I have no evidence to show that this part of the proposal would be unacceptable by reference to any of those defined criteria. I therefore consider the relationship to be appropriate.
13. To the east, the appeal proposal would present a face of three and four storey buildings, appropriate to the scale of the open spaces and distant Mothercare offices. To the north, as suggested by the planning brief, taller flatted buildings would provide an acoustic barrier against the noise of the A41. To the south, as suggested by the planning brief, the proposal would present its part of the proposed neighbourhood centre. Nothing in these relationships strikes me as inappropriate. In the centre of the scheme an open space would be surrounded by two sides of houses, two of flats. This is consistent with the scheme having its own distinct identity and sense of place which, as noted above, I find acceptable in principle.
14. Although the Council's planning brief accepts that this site is large enough to have its own character, in several places it goes beyond policies U2(a) and U3 (which merely seek respect for surrounding character areas), arguing for the character of this appeal site also to be dominated by houses rather than flats. It does so by reference to the peripheral location of the site, the limited public transport in the area but its proximity to schools.
15. Other Council publications refer to the greater suitability of town centre sites for developments of small flats. Without disagreeing with that, there is no suggestion that this site would be unsuitable for flats; indeed the Council's planning brief requires that some be provided. Although bus routes passing the site only run half hourly, the site is within 400m walking distance of other routes providing high frequency services which paragraph 5.41 of the District Plan defines as an acceptable proximity. As indicated by the County Council's

request for additional school accommodation to be provided in the event that this appeal succeeds, with its limited provision of family housing, the advantages for family housing of proximity to schools in the area may be somewhat illusory. I therefore find that the arguments in favour of a preponderance of family housing on this site are not compelling.

16. I conclude that the relationship of the proposal to the character and appearance of the surrounding area is appropriate. The scheme therefore complies with District Plan policies U2(a) and U3.

*Supply, need and demand*

17. Paragraph 5.38 of the justification to District Plan policy H11 points out that many residential areas of the Borough comprise an imbalance of dwelling stock, with three bedroom houses predominating. Redress for the imbalance is sought, although the policy itself does not specify a mix, deferring to the periodically updated Housing Needs Assessment. 2001 Census data shows that this imbalance was particularly marked in the local area around the appeal site.
18. The current Housing Needs Assessment is a 2004 update of a 2001 publication. It shows a mismatch between household size (63% comprising 1 or 2 persons) and dwelling size (59.3 % having 3 bedrooms or more). It shows that newly forming households overwhelmingly sought 1 or 2 bedroomed properties and 60% required flats.
19. Even though the Council's Annual Monitoring Report 2009 (AMR) shows that about 80% of all housing completions in the Borough in the subsequent period 2002 to 2009 are 1 and 2 bedroomed dwellings, mostly flats, that would only alter the overall balance between dwellings of various sizes in the Borough as a whole by a couple of percentage points. After correcting for an arithmetical error, the AMR shows that the percentage of flats has only increased from 26.7% to 30.47% over the period.
20. The scheme proposes a mix which would be 70% flats and 30% houses. That is a lesser emphasis on flats than has been the average for the whole of Watford for the period 2002-9. Given the size of the scheme in the context of the number of completions over that period it would effect a shift towards the supply of houses as opposed to flats of nearly 1% in the balance of development over the period.
21. In the adopted District Plan the concern is expressed that the lack of a variety or mix of dwelling types and sizes can often mean that individuals, couples or families, wanting to transfer to more appropriate accommodation as household circumstances change, have to move away from a familiar locality. The concern now expressed in the AMR is that there is not enough family-sized homes being built for Watford's needs, and that increasingly families will have to move elsewhere.
22. Migration data published by the Office of National Statistics suggests that Watford is the only local authority in the sub-region to have lost population in the age groups of 0-15 and 25-44. This is consistent with an outmigration of younger families but the dynamics of the housing market are too complex to draw simplistic conclusions.

23. As the AMR confirms, building larger housing may not help if it is out of financial reach of those currently overcrowded. Equally, "empty nesters" retaining family housing for a variety of reasons including a lack of smaller dwellings appropriate for older people can result in scarce availability in a situation of statistical surplus.
24. In any one year, the number of new properties completed will be only a fraction of the total numbers of properties offered for sale or rent. I have no evidence to show that in the overall market there have been or are currently too many flats or too few houses available to rent or to purchase. The Council's Housing Strategy 2008-2011 records that from August 2007 to August 2008 there has been a larger decrease in the price of flats compared to that of property overall, which suggests a relative shift in availability, but the period of observation is too brief to draw fundamental conclusions.
25. The more recent AMR points out that flats appear to be a popular choice in terms of need and affordability and that it is difficult to substantiate whether there will be a greater need for numbers of larger homes, given current population and household projections. That does not convince me that the redressed balance hitherto sought by policy H11 has been achieved and should now be reversed or that the preponderance of flats proposed in the appeal scheme is unacceptable.
26. I conclude that the effect of the proposal on the relationship between supply, need and demand for housing of various types and sizes would be acceptable. The development would therefore comply with District Plan policy H11. This requires all housing developments to provide a variety of housing types and sizes paying particular attention to the Council's Housing Needs Assessments.

*Affordable housing*

27. At a very late stage, shortly before the Hearing, the Council realised that it was unhappy with one of the provisions in the unilateral undertaking concerning the provision of affordable housing. The undertaking provides for a base provision and for an enhanced provision in the event that grant assistance is forthcoming. The Council raises no objection to the enhanced provision but objects that the base provision does not serve its needs, to the extent that even if there were no other objection to the development, the appeal should be dismissed.
28. The base provision would be 1 rented four bedroomed house, 14 rented three bedroomed houses, 26 rented 2 bedroomed flats, 10 rented 1 bedroomed flats, 4 shared ownership three bedroomed houses, and 11 shared ownership two bedroomed flats. The Council seeks a base provision of 3 rented four bedroomed houses, 12 rented three bedroomed houses, 18 rented two bedroomed flats, 18 rented one bedroomed flats, 4 shared ownership three bedroomed houses, 2 shared ownership two bedroomed flats and 9 shared ownership one bedroom flats.
29. The Council's requirements for rented properties are based on its 4<sup>th</sup> quarter 2009/10 housing register. The requirements for shared ownership are based on the needs of its partner, the Aldwyck Housing Group.

30. The base provision resulting from the unilateral undertaking would provide affordable housing with a greater floorspace accommodating more people. It would provide rented and shared ownership affordable housing in the proportions recommended by the Council's Supplementary Guidance *SPG1 – Affordable Housing*. It would provide sizes of affordable housing for those in need by reference to the Council's Housing Needs Assessment. Although that is now somewhat dated, it is the reference point specified in the District Plan policy H17.
31. Notwithstanding the Council's preferences for a different mix based upon the latest state of its housing register, that is inevitably in a state of frequent revision. It does not provide a sufficiently stable justification for insisting on a dwelling mix which might not be delivered until some time ahead and so does not justify dismissing this appeal.

*Conditions and other matters*

32. I have considered matters raised by other parties. They do not cause me to reach a decision other than that following from my conclusions on the main issues.
33. The two main parties reached agreement on a set of 23 conditions. These mostly require the necessary submission and approval of details not contained within the application, such as construction methods and times, tree protection, routing of underground services, external materials, hard and soft landscaping, arrangements for the management of open space, foul and surface drainage, bat mitigation measures, noise mitigation, external lighting and renewable energy sources.
34. Others require the implementation of features necessary for the development to be satisfactory, such as the provision of refuse stores, car parking and access arrangements. One makes provision for the protection of nesting birds. Two make adjustments to the provisions of Statutory Instruments, one limiting permitted development rights in gardens which would be as small as would be acceptable, the other allowing for some flexibility of uses within the neighbourhood centre.
35. I have considered the suggested conditions in the light of the provisions of government circular 11/95, *the Use of Conditions in Planning Permissions*, preferring the model conditions contained therein where appropriate. In a couple of cases the conditions suggested are unnecessary because details are provided within the submitted drawings.

*P. W. Clark*

Inspector

## Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 08-1446-001, 002H, 003D, 004D, 005D, 007B, 008A, 010A, 011A, 012B, 013B, 014A, 015C, 016A, 017A, 020B, 021B, 022B, 023B, 026A, 027A, 030B, 031B, 034B, 035B, 036A, 037A, 050C, 051C, 052B, 053C, 054B, 060A, 061A, 062A, 063A, 064A, 065A, 066C, 067B, 068B, 069.1B, 069.2B, 069.3B, 069C, 070D, 071A, 072D, 073A, 074C, 075A, 080, 081, 082, 083, 084A, 090A, 091, 093B, 094A, 095A, 096A, 097A, 099A, 103B, 104A, 106A, 107A, 108A, 109A, 112B, 113C, 114A, 115A, 116A, 117A, 121A, 122A, 123, 124B, 125A, 126A, 127 and 1857/SK/011C.
- 2) The development hereby permitted shall begin not later than three years from the date of this decision.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 4) Demolition or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Public Holidays.
- 5) No development shall take place until a detailed tree protection plan (showing all trees and hedges to be retained, the siting and type of protective fencing and the use and type of no-dig construction methods where appropriate) has been submitted to and approved in writing by the local planning authority and all tree protection measures have been installed as approved. The development shall be carried out in accordance with the approved details which shall be retained throughout the construction period.
- 6) No development shall take place until details of the routing of all below ground services and cabling (electricity, gas, telephone, foul water, surface water, etc), including any temporary connections for site huts, showing depth, width and routing of all trenches, have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

- 7) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected around the boundaries of the site and a timetable for their erection and for the erection of the walls and fences indicated on drawing 08-1446-002H. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until full details of both hard and soft landscape works, based upon the general arrangements shown on the landscape masterplan (drawing number WIM17144-10A and the Landscape Design Strategy and Palette of Materials by ACD Landscape Architects), have been submitted to and approved in writing by the local planning authority. The hard landscaping shall be carried out as approved before the first occupation of the part of the development to which it relates. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting and seeding seasons following the completion of the part of the development to which it relates and not later than the first available planting season following completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 10) No development shall take place until details of the children's play facility, constituting a locally equipped area of play (LEAP) with at least five pieces of play equipment, sited within the open space have been submitted to and approved in writing by the local planning authority. The LEAP shall be provided in full in accordance with the approved details and in accordance with a construction programme as set out within the phasing plan submitted and approved in accordance with condition 20 and shall be retained thereafter as approved.
- 11) No development shall take place until a management programme for the maintenance of areas of open space, the children's play facility and the retained and new tree and shrub planting within the site has been submitted to and approved in writing by the local planning authority. The site shall be managed thereafter in accordance with the approved scheme.
- 12) Development shall not begin until details of the modified layout and construction of the junctions on North Western Avenue as shown on drawing 1857/SK/011C and at Heather Lane have been submitted to and approved in writing by the local planning authority. No part of the development shall be occupied until both access junctions have been constructed in accordance with the approved details.



- 13) No part of the development shall be occupied until the respective refuse, recycling and cycle stores have been constructed in accordance with the approved plans and these stores shall be retained for their intended purpose thereafter.
- 14) Development shall not begin until details of a foul and surface water drainage scheme, incorporating sustainable drainage measures have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the drainage scheme has been constructed in accordance with the approved details.
- 15) Development shall not begin until a bat mitigation scheme in connection with the removal of trees from the site has been submitted to and approved in writing by the local planning authority. The scheme shall include the checking of trees to be removed and the provision of artificial bat roosts as detailed in the Extended Phase 1 Habitat Survey Report submitted with the application. Works on the site shall only be carried out in accordance with the approved scheme.
- 16) No removal of trees, scrub or hedges shall be carried out on the site between 1 March and 31 August in any year unless a suitably qualified ecologist has previously searched the trees, scrub or hedges and certified in writing to the local planning authority that such works of removal may proceed.
- 17) Construction work shall not begin until a scheme for protecting the proposed dwellings on plots 1-76 and 212-215 from noise from the North Western Avenue has been submitted to and approved in writing by the local planning authority; all works which form part of the scheme shall be completed before any of the dwellings on those plots is occupied.
- 18) At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority before development commences. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
- 19) No affordable housing unit shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 of the Code for Sustainable Homes has been achieved.
- 20) A phasing plan shall be submitted to and approved in writing by the local planning authority for the proposed residential development. No phase shall be occupied until space has been laid out, surfaced and permanently marked out within the site in accordance with the approved drawings for cars to be parked and for vehicles to turn. The car parking and turning areas so provided shall thereafter be retained for their intended purpose.
- 21) No part of the neighbourhood centre shall be occupied until the pedestrian footpath from Leggatts Way at the south-western corner of the site has been constructed and landscaped in accordance with the

approved landscaping scheme for the site. The footpath shall thereafter be retained for its intended purpose.

- 22) No development shall take place until details of an external lighting scheme for the development has been submitted to and approved in writing by the local planning authority. The scheme shall be installed as approved before the first occupation of any part of the development to which it relates.
- 23) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no development permitted under Schedule 2, Part 1, Classes A, B, D or E of the Order shall be carried out without the prior written permission of the local planning authority.
- 24) The floorspace on the ground floor of the neighbourhood centre, identified as shop units 1-6 on drawing number 08-1446-097, shall only be used for the retail sale of convenience goods within class A1 (shops) or for the provision of medical facilities within class D1(non-residential institutions) of the Town and Country Planning (Use Classes) Order 1987 (as amended), or, with the prior written consent of the local planning authority, for any other use within the terms of paragraph 4.1 of the Planning Supporting Statement by CgMs dated November 2009 submitted with the application.

## APPEARANCES

### FOR THE APPELLANT:

Richard Tilley	Director, CgMs Ltd
Michael Bedford	Of Counsel
David Parker	Pioneer Property Services Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Paul Baxter	Planning Officer, Watford Borough Council
Councillor Iain Sharpe	Planning Committee member, Watford BC
Lesley Palumbo	Head of Community Services, Watford BC

## DOCUMENTS

- 1 Notification of date, time and place of hearing
- 2 Watford District Plan 2000, table 6 and map 6
- 3 AMR 2009 pages 47-50
- 4 DCLG press release 9 June 2010 re "garden grabbing"
- 5 Housing Strategy 2008/11
- 6 Unilateral undertaking
- 7 Assessment of "without grant" affordable housing mix
- 8 Appellant's paper on affordable housing mix
- 9 Revised list of agreed conditions